

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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FATAI K. SHEKONI,

Petitioner,

ORDER

24-MC-2971 (OEM)

-against-

UNITED STATES OF AMERICA,

Respondent.

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ORELIA E. MERCHANT, United States District Judge:

On July 29, 2024, Petitioner Fatai K. Shekoni, appearing pro se, moved to seal or expunge his arrest record under docket number 00-MJ-1895 upon completing a diversionary program. Motion, ECF 1. On October 28, 2024, the Government opposed the motion. Response in Opposition, ECF 5. On October 30, 2024, Magistrate Judge Lara K. Eshkenazi directed Petitioner to explain his reasons for seeking to expunge or seal his arrest record by December 3, 2024. Petitioner failed to respond.

The United States Court of Appeals for the Second Circuit has held that “A court, sitting in a criminal prosecution, has ancillary jurisdiction to issue protective orders regarding dissemination of arrest records.” *United States v. Schnitzer*, 567 F.2d 536, 538 (2d Cir. 1977); *see also Doe v. United States*, 833 F.3d 192, 197 (2d Cir. 2016) (“*Schnitzer* applies only to arrest records after an order of dismissal.”) (emphasis in original). However, “No federal statute provides for the expungement of an arrest record” and expungement “should be reserved for the unusual or extreme case.” *Schnitzer*, 567 F.2d at 539; *Ruiz v. United States*, 19-MC-850 (MKB), 2019 WL 3388817 at *2 (E.D.N.Y. July 25, 2019) (denying motion because petitioner failed “to identify any harm or other extreme circumstances which would warrant expungement.”).

Here, Petitioner failed to allege any unusual or extreme circumstances that would justify the expungement or sealing of his arrest record in his application and has failed to respond to the court order requiring him to set forth his reasons for seeking to expunge or seal his arrest record.

Accordingly, Petitioner's motion is denied. Although Petitioner paid the filing fee to commence this action, the Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith and therefore *in forma pauperis* status is denied for the purpose of an appeal. *Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

The Clerk of Court is directed to mail a copy of this Order to Petitioner and note the mailing on the docket.

SO ORDERED.

/s/
ORELIA E. MERCHANT
United States District Judge

Dated: January 24, 2025
Brooklyn, New York